

Terrorism Risk Insurance Act of 2002: Highlights

After more than a year of debate, Congress passed the Terrorism Risk Insurance Act of 2002 in mid-November. The act took effect November 26, 2002, the day it was signed into law by President Bush. The following provides some basic information about the Terrorism Insurance Program, but should not under any circumstances be used as a replacement for the full text of the law.

What is the purpose of the new law? The act establishes a temporary federal program in which specified terrorism losses are shared between commercial property/casualty insurers and the federal government. The program is designed to protect consumers by making coverage available for terrorist acts, while allowing a transitional period for insurers to build capacity and gain the loss experience necessary for pricing this new coverage.

What acts qualify under the program? An act of terrorism under the program must have resulted in damage within the United States or to U.S. aircraft, ships or diplomatic missions. Individuals acting on behalf of foreign interests must have conducted the act of terrorism for the purpose of coercing the U.S. civilian population or influencing U.S. government policy.

Who determines if an act of terrorism qualifies for coverage? The Secretary of the Treasury (with the concurrence of the Secretary of State and the Attorney General) must certify that the act is an "act of terrorism" under the provisions of the program.

Are there any dollar thresholds on losses from an act of terrorism? Yes, the act of terrorism must result in property and casualty losses above \$5 million to qualify as an "act of terrorism" under the program.

What lines of insurance does the program apply to? The program applies to most commercial property/casualty lines.

What lines are excluded? Personal lines, medical malpractice, title insurance, mortgage guaranty insurance, federal crop insurance, health insurance, life insurance, national flood insurance and financial guaranty insurance issued by monoline companies.

When does the federal government begin paying losses of individual insurers? The federal government begins paying 90% of an insurer's terrorism losses once those losses exceed a specified deductible, i.e., a percentage of an insurer's property/casualty premium in the previous year. In 2003, for example, that percentage is 7%. If an insurer wrote \$100 million in commercial property/casualty premium in 2002, the federal government would begin payments once that insurer's 2003 terrorism losses reached \$7 million. The percentage increased to 10% in 2004, and 15% in 2005.

Are there any industry-wide retention amounts? Yes, the industry must incur insured terrorism-related losses of a certain magnitude (\$10 billion in 2003, \$12.5 billion in 2004 and \$15 billion in 2005) to trigger federal payments. This is called an "Insurance Marketplace Aggregate Retention Amount."

Can the federal government recoup payouts under the program? Yes, recoupments are permitted, and in some cases mandated, under the program. Surcharges to policyholders of up to 3% of premium would be charged to cover the costs of the recoupment.

Are insurers compelled to provide terrorism coverage? Insurers must “make available” coverage to their policyholders and must notify policyholders and applicants of the premium to be charged for coverage under the program.

When does the program terminate? December 31, 2005

Where can I get more information? The following Web Sites should be helpful: U.S Treasury:
www.treas.gov/offices/domestic-finance/financial-institution/terrorism-insurance

Insurance Information Institute: www.iii.org/media/hot-topics/hot/terrorismact

Zurich North America: www.zurichna.com

National Association of Insurance Commissioners: www.naic.org